

Cheat Sheet: The Legal Environment

Essential Concepts

Understanding Law

The law as we defined it is a set of rules of conduct or procedure established by custom, agreement, or authority. It refers to the entire body of rules and principles governing the affairs of a community and enforced by a political authority. The main purposes of the law are to establish standards, maintain order, resolve disputes, and protect liberties and rights.

There are different sources of law in the U.S. legal system. The U.S. Constitution is foundational; U.S. statutory and common law must be consistent with its provisions. Congress creates statutory law (with the signature of the president), and the courts interpret both statutory and constitutional law. Where there is neither constitutional law nor statutory law, the courts function in the realm of common law.

Tort Law

In common law jurisdictions, a tort is a civil wrong that unfairly causes someone else to suffer loss or harm, resulting in legal liability for the person who commits the tortious act. To establish a tort and seek damages, harm must be caused either intentionally or through negligence. Intentional torts involve deliberate actions resulting in harm, while negligence arises from an unintentional failure to exercise reasonable care. Negligence cases require proving duty of care, breach, actual causation, proximate causation, and damage, but do not apply to unavoidable accidents.

Strict liability holds manufacturers or sellers responsible for harm caused by inherently dangerous products or activities without requiring proof of negligence or intent. Product liability is the area of law in which product manufacturers, distributors, and sellers are held responsible for the injuries caused by their products.

When someone pursues a claim under a tort, the goal (or legal remedy) is usually the award of damages. Damages are an award, typically of money, to be paid to a person as compensation for loss or injury.

Intellectual Property

Intellectual property refers to creations of the mind—creative works or ideas embodied in a form that can be shared or enable others to recreate, emulate, or manufacture them. There are three main ways to protect intellectual property: patents, trademarks, and copyrights.

What is a Contract?

Every transaction in business creates a contract (agreement) between the parties. A contract can be an **express contract**, which specifies the terms of the agreement in either written or spoken words, or an **implied contract**, which depends on the acts and conduct of the parties to show agreement.

In order to determine whether a valid, enforceable contract exists, the following questions must be answered: (1) Did the parties reach an agreement? (2) Was consideration present? (3) Was the agreement legal? (4) Did the parties have the capacity to make a contract? (5) Was the agreement in the proper form?

A warranty is a contract that promises goods or services will meet certain standards, creating a legal obligation and liability, and can be expressed or implied, providing remedies if the product or service fails to meet those standards.

Remedies available against someone who breaches a contract include damages, specific performance, and restitution. Frequently, the party who is not in breach must choose between tort and contract remedies.

Consumer Protection and Antitrust Laws

A range of laws regulate consumer affairs, and their aim is to protect consumers from unscrupulous business practices or potentially dangerous products. Some of the most far-reaching consumer protection laws are the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Federal Food, Drug, and Cosmetics Act, and the Uniform Deceptive Trade Practices Act.

Antitrust legislation is another kind of consumer protection that aims to prevent unfair business practices that limit competition or control prices. The three core federal antitrust laws are the Sherman Act, the Federal Trade Commission Act, and the Clayton Act.

Career Connection: Equity and Inclusion

Being skilled in equity and inclusion involves demonstrating awareness and respectful engagement with individuals from diverse cultures, actively challenging exclusionary systems and policies, and anticipating professional interactions with people from various backgrounds. It is important for understanding and collaborating with colleagues, maintaining productive relationships with stakeholders, and speaking up against unfair practices that hinder equal opportunities.

Glossary

actual causation

breach of duty of care caused the harm; except for the breach, the harm would not have happened

antitrust legislation

laws that create and maintain a competitive market that results in lower prices, higher quality, more choice, and more innovation

breach

failing to meet the duty of care

breach of contract

when one party to a contract fails to fulfill the terms of the agreement and has no legal excuse for failing to act

common law

law made through judicial rulings

compensatory damages

compensates for the wrong and restores the plaintiff to their original position

consideration

exchange of value

contract

an agreement between parties that contains details about the performance of a specified action that is enforceable by law

copyright

gives creators of literary, dramatic, musical, artistic, and intellectual works the exclusive right to their original work for a limited time whether the work is published or not

damages

monetary payment to correct a wrong

damage

the injury or other loss caused by the breach of duty of care

design defect

the manufacturer's design is inherently dangerous or defective

design patent

are based on an item's appearance and prevent unauthorized use of a product design or design element

duty of care

legal responsibility to another person

equity and inclusion

demonstrating the awareness and ability to respectfully engage and include people from different local and global cultures while also actively challenging the systems and policies that are unfairly exclusionary

express contract

specifies the terms of the agreement in either written or spoken words

express warranty

are specific statements of fact or promises about a product by the seller

failure to warn defect

the manufacturer or seller failed to provide adequate instructions regarding the product's use or warn the buyer of the potential danger of misuse

implied contract

depends on the acts and conduct of the parties to show agreement

implied warranty

guarantees are imposed on sales transactions by statute or court decision

intellectual property

an intangible asset

intentional tort

a wrongful act that is deliberately done and causes harm

laws

the rules of conduct created and enforced by a controlling authority, usually the government

legal capacity

to enter into a contract, a person has to be at least 18 and of sound mind

legality

the purpose of a contract must be legal

manufacturing defect

the defect results from a failure in the manufacturing and/or quality control process

negligence

a wrong that occurs when reasonable care is not taken for the safety of others

offer and acceptance

one side proposes details and the other agrees

patent

gives the holder of the patent the exclusive right to the invention for a limited period of time

payment of damages

money awarded to the party who was harmed by the breach of contract, to cover losses incurred because the contract wasn't fulfilled

plant patent

protects new varieties of plants

precedence

requires judges to decide a dispute based on previous decisions in cases with similar facts

product liability

manufacturers' and sellers' responsibility for defects in the products they make and sell

proximate causation

the harm caused by the breach of duty of care is foreseeable

punitive damages

awarded in cases where the defendant's actions were so unacceptable that the additional payment is meant to deter the defendant from repeating the actions in the future

restitution

canceling the contract and returning to the situation that existed before the contract

service mark

a trademark that represents a service rather than goods

specific performance

a court order requiring the breaching party to perform the duties under the terms of the contract

statutory law

laws that come from the legislative branch of the government

strict liability

a manufacturer or seller having responsibility for harm solely because the product or activity is ultrahazardous

tort

an act that harms other people or their property where the victim may sue to recover damages for the harm

trademarks

any word, phrase, symbol, design, or a combination of these things that identifies goods or services; a business' brand

utility patent

protects how inventions work whether they are processes, machines, goods, the particular way an item is made, and any improvements

warranty

a promise that goods sold will meet certain standards